

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MAIL PROCESSING NETWORK RATIONALIZATION
SERVICE CHANGES, 2011

Docket No. N2012-1

**REPLY OF THE UNITED STATES POSTAL SERVICE
TO DAVID POPKIN MOTION NO. 2 SEEKING TO COMPEL RESPONSES TO
INTERROGATORIES DBP/USPS-34, 35 AND 40
(March 9, 2012)**

The United States Postal Service hereby replies to Motion No. 2 filed by David Popkin on March 2, 2012. For the reason explained below, the motion should be denied.

DBP/USPS-34 and 35

In response to interrogatory DBP/USPS-21, the Postal Service resisted the urge to object on the basis of the absence of relevance of the request for a copy of the External First Class (EXFC) measurement system statement of work to the service changes at issue in the instant docket. In exercising such restraint, the Postal Service demonstrated its respect for the *possibility* that production of the requested document might prompt Docket No. N2012-1 interrogatories seeking information that was either relevant to the Commission's review of the proposed service changes or that might lead to the production of such information. Instead, the Postal Service was served with interrogatories DBP/USPS-34 and 35 which, on their face, fail to meet these standards. Motion No. 2 provides no basis for reaching a contrary conclusion. It asserts:

The current Docket proposes to change the service standards for single-piece First-Class Mail and the EXFC program is designed to measure the compliance with the new service standards. The ability of the EXFC program to accurately measure the performance of the Postal Service to meet these new standards is relevant.

However, compliance with current service standards and how service performance is measured are matters currently within the scope the Docket No. ACR2011-1, not the instant docket. And compliance with future service standards and methods by which it will be measured will be the subject of future ACR dockets. Interrogatories DBP/USPS-34 and 35 do not reference either current service standards or the proposed changes. The fact that EXFC is used for service performance measurement has no nexus to the issue raised by the request in the instant docket: whether the proposed service changes affecting single-piece First-Class Mail conform to applicable statutory policies. Motion No. 2 fails to assert a nexus between EXFC and any statutory policy. It provides no basis for concluding that the requested information relates to issues within the scope of Docket No. N2012-1 or that the interrogatories are likely to lead to admissible evidence relevant to those issues.

Motion No. 2 merely claims that since EXFC relates to First-Class Mail and the Docket No. N2012-1 service changes relate to First-Class Mail, then discovery in Docket No. N2010-2 extends to any aspect of EXFC of interest to Mr. Popkin. Using the same logic, Motion No. 2 might as well assert that since postage stamps are applied to single-piece First-Class Mail, and the proposed Docket No. N2012-1 service changes affect single-piece First-Class Mail, then the manner in which postage stamps are designed is an appropriate topic for discovery in the current section 3661 docket.

Motion No. 2 invites the Commission to incorporate the substance of interrogatories DBP/USPS-34 and 35 into a Docket No. ACR2011-1 information request. The Commission is free to consider doing so if applicable procedures and time constraints permit. Meanwhile, parties should not be permitted to abuse discovery in

the instant docket as insurance against the possibility that the Commission might not exercise its discretion in their favor in Docket No. ACR2011-1.

DBP/USPS-40

The service changes under review in the instant docket include future changes in commercial mail entry associated with the potential relocation of Bulk Mail Entry Units that currently exist at postal facilities that may see their mail processing operations consolidated. Intervenor has engaged in robust discovery seeking to understand the nature and magnitude of the potential future mail entry changes. Various discovery responses reveal that many BMEUs will stay in place and that efforts will be made to limit BMEU relocations to fewer than 10 miles. Further exploration of these potential changes is to be expected.

What is not expected is discovery that seeks instead to delve into the minutiae of historical decisions to close or relocate BMEUs on a state-by-state basis. There is a current baseline of existing BMEUs. The service changes will potentially affect some of them. Questions regarding how many BMEUs there were before the current baseline universe, what mail those former BMEUs used to accept, and which states experienced BMEU consolidations and which did not seek information that sheds no light on whether the proposed service changes would conform to applicable policies of title 39. In Motion No. 2, Mr. Popkin argues that:

[t]he ability of mailers to have access to a local BMEU is relevant to the change of service standards. The service standards may change if a mailer is forced to bring their mail to a different entry point. That entry point may have a different processing center and associated service standards; it may also have an earlier entry time so the mail will be delayed.

However, interrogatory DBP/USPS-40 explores none of these issues. Mr. Popkin,

instead, confesses that "[t]he object of Interrogatory DBP/USPS-40 is to determine whether the other 49 states of the country were affected as drastically as New Jersey was" by historical changes in the numbers of BMEUs. The interrogatory, thus, seeks no information relevant to the changes at issue in the instant docket.

Contrary to the assertion Motion No. 2, the Postal Service did not object on the basis that responding to the interrogatory would impose an undue burden. The Postal Service has not examined whether it has readily available records revealing the types of mail that used to be accepted at BMEUs that ceased operating at least several years ago, or whether the universe of BMEUs several years ago in each state was a static number or the product of some local initiative to reduce their numbers. It bears repeating that if the service changes under review in this docket result in a diminution in the current baseline number of Bulk Mail Entry Units (nationwide or in the state of New Jersey), the fact that there used to be more BMEUs at some point in the past sheds no light on the question of whether the change from the current baseline to the future number of BMEUs would be consistent with the provision of service consistent with the policies of title 39. Accordingly, the Postal Service should not be burdened with historical research of the sort requested by this interrogatory.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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